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UNCLAS SECTION 01 OF 02 BRASILIA 001640

SIPDIS

STATE FOR WHA/BSC, EB/TPP/MTA/IPC SWILSON
STATE PASS TO USTR FOR SCRININ, LYANG AND BPECK
USDOC FOR 4322/ITA/MAC/WH/OLAC/WBASTIAN/JANDERSEN
USDOC FOR 4322/ITA/MAC/WH/OLAC/DMCDOUGALL/ADRISCOLL
USDOC FOR 3134/USFCS/OIO/EOLSON/DDEVITO
TREASURY FOR OASIA/SEGAL
NCS FOR DEMPSEY

SENSITIVE

E.O. 12958: N/A

TAGS: [KIPR](#) [ETRD](#) [PGOV](#) [ECON](#) [BR](#) [IPR](#)

SUBJECT: 2004 GSP REVIEW DEMARCHE RESPONSE

Ref: State 142089

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1. (U) Taking advantage of a previously scheduled courtesy call, Econoff delivered reftel demarche June 29 to the new head of the Ministry of External Relations' (MRE) Intellectual Property Division, Otavio Brandelli. Brandelli had no immediate reaction to news of the 90-day extension or formation of a working group via the Bilateral Consultative Mechanism, but told Econoff that a cable to be sent to the Embassy in Washington was currently awaiting Minister Amorim's approval. He asked what specific language would be published on June 30 in regard to the GSP review, warning of potentially negative reactions. In a follow-up phone conversation after the Minister's approval of the cable, Brandelli explained that the GoB accepted the proposal for bilateral meetings on the issue, but not necessarily through the existing Bilateral Consultative Mechanism. Noting the importance of flexibility, he implied that less formal, or less cumbersome channels of communication exist.

2. (SBU) Offering his personal reaction, Brandelli expressed dismay that private sector dissatisfaction with Brazil's IPR enforcement could result in retaliatory trade sanctions. Econoff replied that the objective of the demarche was exactly to avoid such a situation via a mutually agreed upon plan to be determined within the 90-day extension of the investigation. Brandelli cautioned that there could be very negative responses from the Brazilian Congress, especially as Congress's Investigatory Commission (the CPI) had just released its final report. A negative GSP announcement, he said, could be perceived as a slap in the face by those who worked cooperatively with the USG and associations of U.S. right holders to document the significant problem of piracy and enforcement in Brazil. Brandelli encouraged efforts to depoliticize the subject.

3. (SBU) He agreed that the Piracy CPI report is a positive development, especially given its clarification of the damages sustained by Brazilian music, software, fashion and other industries. Mentioning Brazil's concerns with geographical indicators such as cachaca (Brazilian sugar-cane based spirit supposed being made and marketed in Europe) and capuacu (Amazonian fruit trademarked in Japan and the U.S.), Brandelli noted that both Brazil and the U.S. want more effective enforcement, but need to proceed toward that end in a sensible manner, taking into account the question of resources.

4. (SBU) Econoff asked about the future of the Interministerial Committee for Fighting Piracy (CICP), given the CPI's recommendation that the committee be replaced. Brandelli noted that the committee continues to function, and told econoff that Ambassador Clodoaldo Huguene, MRE Secretary General for Integration, Economics and Foreign Trade, had met with the Vice Minister of Justice in May 2004 to initiate discussion on possible changes to the CICP, exploring options like moving it from the Justice Minister to the National Security Agency. Brandelli's personal recommendation is that the Finance Ministry oversee the CICP.

5. (SBU) Explaining his involvement in the development of the Brazilian IPR legislation of 1996, Brandelli expressed disappointment that bilateral problems remain, even after Brazil made the exceptional effort to produce first class legislation. Whatever plans are made via a bilateral process, he said, the GoB would not pass new laws or sign on to new treaties, insisting that current legislation goes far beyond TRIPS requirements and is more than sufficient. He asserted that the July 2003 law (10.695/2003) toughening certain copyright penalties and improving procedures on destruction of seized goods is quite far-reaching, although he allowed that more time is needed to fairly judge its application and results. He lamented that there seemed to be little appreciation of the significance of this legislation, implying

that Brazil does not get its due credit when it comes to the fight against piracy. (Note: The CPI has recommended draft legislation that goes beyond the 2003 law on minimum penalties as well as procedures for making indictments and storage/analysis of seized goods.)

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